IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 8379 of 1993

Between:

M/s.Bharat Heavy Plate & Vessels Ltd., Visakhapatnam, represented by its Managing Director K.Raghavaiah, S/o. Ankappa Naidu

..... PETITIONER

AND

1. The Authority Under Minimum Wages Act, 1948 and the Assistant Commissioner of Labour, Circle-1, Visakhapatnam

2. The State of Andhra Pradesh, represented by its Secretary, Incharge Labour, Secretariat, Hyderabad.

3. Y.Surya Prasad, Assistant Commissioner of Labour, Ccircle-1, Visakhapatnam.

4. P.Mutyala Naidu, Assistant Labour Officer, Circle-VI, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare and order that the employment in the petitioner's company or factory is not a scheduled employment under Minimum Wages Act and G.O.Ms.No.13, dated 04.01.1989 is not applicable to the workmen of the petitioner Factory/Company and is null and void and the 1st respondent authority is not empowered to adjudicate in respect of the case on the file of the 1st respondent authority, which is numbered as M.W.No.55 of 1992 and consequently set aside and quash the order made in M.W.No.55 of 1992, dated 26.05.1993 on the file of the 1st respondent authority and

declare the same as null and void by issuance of writ of Mandamus/Certiorari or any other appropriate writ or order or direction and to grant such other relief as the petitioner is entitled to.

Counsel for the Petitioner:MR.P.NAGESWAR SREE

Counsel for the Respondent Nos.1 & 2: GP FOR LABOUR

Counsel for the respondents 3 & 4: None appeared.

The Court made the following :

O R D E R:

1) This writ petition is filed challenging the orders passed by the 1st respondent authority under the Payment of Minimum Wages Act, 1948 (for short the 'Act') in M.W.No.55 of 1992, dated 26.05.1993.

2) The Inspector of Labour filed an application before the authority under the Act, claiming differential Minimum Wages in pursuance of G.O.Ms.No.13, dated 04.01.1989. The 1st respondent authority allowed the application for a sum of Rs.23,52,252/-. Against which, the present writ petition has been filed by the workman.

3) The only contention raised by the learned counsel for the petitioner is that in pursuance of an application filed by the 4th respondent-Assistant Labour Officer, Circle-VI, Visakhapatnam on behalf of the workmen, the minimum wages applicable

to the un-skilled labour was paid. But, however, the authority allowed the claim of the workmen, treating them as semi skilled and also directed the petitioner company to pay the wages payable to the semi skilled of the company, in pursuance of the settlement entered into between the management and workmen. It is also submitted that as the power of categorization of employees is not available to the authority under the provisions of the Minimum Wages Act, the order under challenge is liable to be set aside.

4) The learned Government Pleader, however, submits that on the basis of the evidence available on record, the authority held that the work, which is being discharged by the Casual Labour is semi skilled in nature and the award with regard to the wages payable to the common as well as semi skilled workers is quite legal. If there is any dispute with regard to the status of the workmen, it would not be appropriate for the authority to consider the same as if it is an adjudicatory body. Such categorization can be done only under the provisions of the Industrial Disputes Act. Basing on the admitted facts and keeping in view the status of the employees, minimum wages have to be paid to them.

5) Under those circumstances, I am of the view that the authority has laboured heavily on the question of categorization of the employees, which is not within its jurisdiction. Hence, the order of the Tribunal is wholly illegal, unsustainable and beyond jurisdiction.

6) The order under challenge is, therefore, set aside. The writ petition is accordingly allowed. No costs.

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G.BIKSHAPATHY.J.,

Dt.03.02.2005

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To

1. The Authority Under Minimum Wages Act, 1948 and the Assistant Commissioner of Labour, Circle-1, Visakhapatnam

2. Secretary, Incharge Labour, State of Andhra Pradesh, Secretariat, Hyderabad

3. Assistant Commissioner of Labour, Circle-1, Visakhapatnam

4. Assistant Labour Officer, Circle-VI, Visakhapatnam.

5. 2 CCs to the G.P.For Labour, High Court of A.P., Hyderabad (OUT)

6) 2 CD copies.